

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

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RICHARDINE NESMITH,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	Case No: 2:18-cv-16534
	:	
IEENERGIZER HOLDINGS, LLC; FIRST	:	
CONTACT, LLC. a/k/a iQor, GC SERVICES LP,	:	
and ALORICA, INC., f/k/a EGS FINANCIAL	:	
CARE, INC.	:	
Defendants.	:	
-----X	X	

**DEFENDANT ALORICA, INC. f/k/a EGS FINANCIAL CARE, INC.’S ANSWER AND
AFFIRMATIVE DEFENSES**

Defendant ALORICA, INC., f/k/a EGS FINANCIAL CARE, INC. (“Alorica”), by and through its undersigned counsel, hereby provides its Answer and Affirmative Defenses to Plaintiff Richardine Nesmith’s Complaint as follows:

Introduction

1. Defendant admits that Plaintiff asserts a TCPA claim against it but denies it violated the TCPA and denies Plaintiff is entitled to judgment or any damages.

Jurisdiction and Venue

2. Defendant admits the allegations in Paragraph 2 of the Complaint.
3. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of the Complaint and therefore denies those allegations.
4. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 of the Complaint and therefore denies those allegations.

Parties

5. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of the Complaint and therefore denies those allegations.
6. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 6 of the Complaint and therefore denies those allegations.
7. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7 of the Complaint and therefore denies those allegations.
8. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8 of the Complaint and therefore denies those allegations.
9. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 9 of the Complaint and therefore denies those allegations.
10. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 10 of the Complaint and therefore denies those allegations.
11. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the Complaint and therefore denies those allegations.
12. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 of the Complaint and therefore denies those allegations.
13. Defendant admits the allegations in Paragraph 13 of the Complaint.
14. Defendant responds that Paragraph 14 calls for a legal conclusion; thus no response from Defendant is required. To the extent that a response is required, Defendant denies the allegations.
15. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15 and therefore denies those allegations.

Factual Allegations

16. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16 of the Complaint and therefore denies those allegations.
17. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17 of the Complaint and therefore denies those allegations.
18. Defendants denies the allegations in Paragraph 18 of the Complaint.
19. Defendant denies the allegations in Paragraph 19 of the Complaint.
20. Defendant denies the allegations in Paragraph 20 of the Complaint.
21. Defendant denies the allegations in Paragraph 21 of the Complaint.
22. Defendant denies the allegations in Paragraph 22 of the Complaint.
23. Defendant denies the allegations in Paragraph 23 of the Complaint.
24. Defendant denies the allegations in Paragraph 24 of the Complaint.
25. Defendant denies the allegations in Paragraph 25 of the Complaint.
26. Defendant admits Plaintiff brought a claim in arbitration, but denies that she was receiving incessant calls.
27. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 27 of the Complaint and therefore denies those allegations.
28. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 28 of the Complaint and therefore denies those allegations.
29. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 29 of the Complaint and therefore denies those allegations.
30. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30 of the Complaint and therefore denies those allegations.

Count I

31. Alorica restates and incorporates its responses to the preceding paragraphs as if set forth fully herein.

32. This paragraph is a pure legal recitation and contains no allegations directed to Alorica, to which no response is required. To the extent this paragraph alleges or implies a violation of the cited statute by Alorica, those allegations are denied in their entirety.

33. Defendant denies the allegations in Paragraph 33 of the Complaint.

34. Defendant denies the allegations in Paragraph 34 of the Complaint.

35. Defendant denies the allegations in Paragraph 35 of the Complaint.

36. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36 of the Complaint, and therefore denies those allegations.

37. Defendant denies the allegations in Paragraph 37 of the Complaint.

38. This paragraph is a pure legal recitation and contains no allegations directed to Alorica, to which no response is required. To the extent this paragraph alleges or implies a violation of the cited statute by Alorica, those allegations are denied in their entirety.

39. Defendant denies the allegations in Paragraph 39 of the Complaint.

40. Defendant denies the allegations in Paragraph 40 of the Complaint.

41. Defendant denies the allegations in Paragraph 41 of the Complaint.

AFFIRMATIVE DEFENSES

First Affirmative Defense

Plaintiff fails to state a claim for which relief can be granted.

Second Affirmative Defense

Any calls placed to Plaintiff were placed with Plaintiff's express prior consent.

Third Affirmative Defense

Any damages awarded to Plaintiff must be reduced or diminished in proportion to the wrongful conduct of persons or entities other than Alorica under the principles of equitable allocation, set-off, or comparative fault, including the actions of Plaintiff, co-defendants, or third parties.

Fourth Affirmative Defense

Plaintiff has failed to mitigate her damages, if any. Further, Plaintiff's damages claim under the TCPA must be barred or diminished due to an absence of any actual damages.

Dated: February 14, 2019

THE SALVO LAW FIRM, P.C.

By: /s/ Cindy D. Salvo
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